

United States Senate
WASHINGTON, DC 20510

April 12, 2024

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra,

In March 2016, we lost a young woman with great potential named Jessica Grubb. Jessie was a great student, a loving daughter and sister, and an avid runner. She was also recovering from an opioid use disorder.

When she had surgery for an infection related to a running injury, her parents were there to take care of her and both Jessie and her parents told her doctors and hospital personnel that she was in recovery and was not to be prescribed opioids. Unfortunately, Jessie's discharging physician missed this note in her medical record and sent her home with a prescription for 50 oxycodone pills. Her parents talked to her on the phone when she got home, but that was the last time. She passed away that night in her sleep. The temptation was too great for her, as it would be for so many in recovery. Her death was tragic, but preventable.

Jessie's story inspired us to act to save lives and prevent families like Jessie's from feeling that grief. We introduced *Jessie's Law*, a simple bill to honor Jessie that would require the Department of Health and Human Services (HHS) to develop and disseminate standards for hospitals and medical professionals to effectively display a patient's past history of opioid use disorder when the patient provides that information. This will help ensure that medical professionals are able to take this into account when working to provide medically appropriate care just as they would any allergy or other life-threatening condition.

Jessie's Law was included in the *SUPPORT for Patients and Communities Act*, which was signed into law by President Trump on October 24, 2018. Since then, HHS Office of Civil Rights (OCR) has partially responded to this directive, however it has not released best practices for including a patient's history of opioid use disorder in their electronic health record. In February of this year, HHS finalized the *Confidentiality of Substance Use Disorder (SUD) Patient Records* rule, which better aligns the rule governing privacy records for patients with substance use disorder, known as *42 CFR Part 2 (Part 2)* with the *Health Insurance Portability and Accountability Act (HIPAA)*. Previously there had been concern with best practices and how to address Part 2 confidentiality, however with this rule being finalized, we feel that it is now past time to fully implement Jessie's Law.

Since the passage of *SUPPORT for Patients and Communities Act*, the COVID-19 pandemic helped exacerbate the substance use crisis in the United States. According to recently published data, drug overdose deaths reached record levels in 2021; totaling nearly 107,000 people and reversing the progress that was made as recently as 2019.¹ As you know, both *Jessie's Law* and the *Legacy Act* were enacted to reduce the burdens associated with accessing treatment, and to improve care coordination, while protecting patient privacy, in order to ensure we are addressing the drug epidemic to our fullest potential

We appreciated HHS fully implementing the *Legacy Act* and look forward to securing Jessie's legacy by fully implementing *Jessie's Law*, to ensure a tragedy like Jessie's never happens again. We look forward to hearing from you on your plans to fully implement the law.

Sincerely,



Joe Manchin III
United States Senator



Shelley Moore Capito
United States Senator

¹ Spencer MR, Miniño AM, Warner M. "Drug Overdose Deaths in the United States, 2001-2021," NCHS Data Brief No. 457, Dec. 2022, <https://www.cdc.gov/nchs/products/databriefs/db457.htm#:~:text=Data%20from%20the%20National%20Vital,rates%20from%202020%20through%202021.>